

REMARKS

Reconsideration of the subject application is earnestly solicited.

Claims 183 through 186, 188 through 209, 223 through 226, 228 through 254, 258, 261, 262, 265 through 278, 281, 283 through 285, and 287 are pending, with Claims 183, 191, 199, 223, 231, 239, 250, 261, 262, 266, 269, 270, 271, 281, and 287 being independent. Claims 184, 190, 194, 195, 223, 224, 230, 231, 234, 235, 239, 250, 261, 262, 266, 281, and 287 have been amended.

REQUEST FOR WITHDRAWAL OF FINALITY OF OFFICIAL ACTION

The MPEP states that an Official Action may not be made final when it introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement. MPEP 706.07(a). Here, the previous Official Action dated July 7, 2004, rejected, inter alia, Claim 184 under 35 U.S.C. § 103 over U.S. Patent No. 5,755,404 (Numbers) in view of "AlliedSignal's Augmented Forced-Air Deicing (AFAD)," AlliedSignal Aerospace. The November 8, 2004 Amendment responding to that Official Action did not amend Claim 184. Nor was an information disclosure statement submitted at that time. Now, Claim 184 is rejected under 35 U.S.C. § 103 over documents other than those applied before, as well as being rejected under 35 U.S.C. § 112, 1st paragraph. Applicant respectfully submits that such constitutes a new ground of rejection that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement, as a result of which withdrawal of

the finality of the present Official Action is earnestly solicited. MPEP 706.07(a), 706.07(c), 706.07(d), 706.07(e).

STATEMENT UNDER 37 C.F.R. § 41.202

As previously advised, Applicant respectfully submits that Claims 183 through 186, 188 through 209, and 223 through 249 were copied in modified form from Claims 1 through 4 and 7 through 28 of U.S. Patent No. 6,209,823 (“Foster ‘823”), and Claims 250 through 289 were copied in modified form from Claims 1 through 7, 9, 13, 15, 16, and 18 through 30 of U.S. Patent No. 6,547,187 B2 (“Foster ‘187”), as shown by the following table:

TABLE

subject application claims	<u>Foster</u> ‘187 claims	<u>Foster</u> ‘823 claims
183, 223		1
184, 224		2
185, 225		3
186, 226		4
		5
		6
188, 228		7
189, 229		8
190, 230		9
191, 231		10
192, 232		11

subject application claims	<u>Foster</u> '187 claims	<u>Foster</u> '823 claims
193, 233		12
194, 234		13
195, 235		14
196, 236		15
197, 237		16
198, 238		17
199, 239		18
200, 240		19
201, 241		20
202, 242		21
203, 243		22
204, 244		23
205, 245		24
206, 246		25
207, 247		26
208, 248		27
209, 249		28
250	1	
251, 274	2	
252, 275	3	
253, 276	4	
254, 277	5	
255	6	
256	7	

subject application claims	<u>Foster '187</u> claims	<u>Foster '823</u> claims
	8	
257	9	
	10	
	11	
	12	
258, 278	13	
	14	
259	15	
260, 279	16	
	17	
261, 280	18	
262, 281, 282, 289	19	
263	20	
264	21	
265, 283	22	
266	23	
267, 284	24	
268, 285	25	
269	26	
270, 286, 287, 288	27	
271	28	
272	29	
273	30	

FURTHER REMARKS

The November 8, 2004 Amendment was objected to under 35 U.S.C. § 132 and Claims 184 through 186, 194 through 196, 223 through 226, 231 through 254, 258, 261, 262, 265 through 268, 281, 283 through 285, and 287 were rejected under 35 U.S.C. §§ 112, 1st paragraph, for use of the following claim expressions: (a) “compressor connected to the boom”, (b) “air source disposed on said boom”, (c) “compressor unit disposed above the first end of said boom”, (d) “compressor unit disposed on said boom”, (e) “compressor connected to a vehicle boom”, and (f) hydraulic motor “on said boom”. The Official Action states (1) that the specification discloses the compressor --at the base of the boom--, while (2) Fig. 8 shows the boom attached to the air compressor enclosure. All objections and rejections are respectfully traversed, and are respectfully submitted to have been obviated by the amendment of the claims in a manner earnestly believed to avoid the grounds of rejection. In particular, recitations (a) and (e) have been changed in view of point (2) to recite the --enclosure--; recitations (b) and (d) have been changed in view of point (1) to recite --at the base-- of the boom; recitation (c) has been changed to recite --at-- the first end of the boom; and recitation (f) has been deleted. Applicant respectfully submits that the amended recitations find support at least at, for example, the portions of the subject application’s specification and drawings noted in the Official Action. Favorable consideration is earnestly solicited.

Claims 183 through 186, 188 through 209, 223 through 226, 228 through 254, 258, 261, 262, 265 through 278, 281, 283 through 285, and 287 were variously rejected under 35 U.S.C. § 103 over U.S. Patent Nos. 5,134,266 (Peppard), 5,318,254 (Shaw, et al.), 4,423,980

(Warnock), 5,244,168 (Williams), and 4,488,447 (Gebhardt). All rejections are respectfully traversed.

Claims 223, 231, 239, and 287 recite, inter alia, that the compressor enclosure is connected to the vehicle boom.

Claims 261, 262, and 280 recite, inter alia, that the compressor is at the end of the boom.

Claims 183, 191, 199, 250, 266, and 270 variously recite, inter alia, that the compressor is supported at the base of the boom or that the air source or compressor unit is disposed at the base of the boom.

Claims 269 and 271 recite, inter alia, that the compressor unit is located at the boom.

However, Applicant respectfully submits that none of Peppard, Shaw, et al., Warnock, Williams, and Gebhardt, even in the proposed combinations, assuming, arguendo, that the documents could be combined, discloses or suggests at least the above-discussed claimed features as recited, inter alia, in Claims 183, 191, 199, 223, 231, 239, 250, 262, 266, 269, 270, 271, 280, and 287. It is further respectfully submitted that there has been no showing of any indication of motivation in the cited documents that would lead one having ordinary skill in the art to arrive at such features. In this regard, the Official Action states that Peppard's compressor is not located as claimed, but that, (1) in view of the deicing fluid pump of Shaw, et al., it would have been obvious to modify Peppard's compressor or (2) in view of the movable dump box 14 and compressor of Warnock, it would have been obvious to modify Peppard's compressor. Applicant respectfully traverses the foregoing. Applicant respectfully submits that the deicing

fluid pump of Shaw, et al. is not a compressor as claimed and would not have provided motivation that would lead one having ordinary skill in the art to modify Peppard's compressor. Applicant also respectfully submits that the movable dump box 14 of Warnock is not a boom as claimed, and the artisan would not have turned to that teaching, from an asphalt repair patent, to attempt to modify Peppard.

Furthermore, Applicant respectfully directs the Examiner's attention to MPEP 2307.02, which states that Group Director approval is necessary for the rejection of claims copied from a patent where the ground of rejection is also applicable to the corresponding claim in the patent.

The dependent claims are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from independent claims discussed above. Therefore, separate and individual consideration of each dependent claim is respectfully requested.

This Amendment After Final Rejection is an earnest attempt to advance prosecution and reduce the number of issues, and is believed to clearly place this application in condition for allowance. Furthermore, Applicant respectfully submits that a full appreciation of these amendments will not require undue time or effort given the Examiner's familiarity with this application. Moreover, this Amendment was not earlier presented because Applicant earnestly believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of this Amendment under 37 C.F.R. § 1.116 is respectfully requested.

CONCLUSION

Applicant has copied the claims from U.S. Patent Nos. 6,209,823 (Foster '823) and 6,547,187 B2 (Foster '187) for the purpose of provoking an interference. Support for the copied claims and the identification of a proposed count for the interference will be submitted in a separate Request for Interference which will be filed in due course should the Examiner wish. In the meantime, if the Examiner reaches this case for action prior to receipt of the Request for Interference, the Examiner is requested to telephone the undersigned before acting on the subject application.

Applicant's undersigned attorney may be reached in our Washington, D.C., office by telephone at (202) 530-1010. All correspondence should to be directed to our address below.

Respectfully submitted,



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